

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

LIBERTY MUTUAL INSURANCE COMPANY,	)	CIVIL ACTION
	)	NO. 96-10804-DPW
	)	NO. 1:04-CV:10678-DPW
Plaintiff,	)	(Shaffer Landfill)
	)	
v.	)	
	)	
THE BLACK & DECKER CORPORATION,	)	
BLACK & DECKER, INC., BLACK & DECKER	)	
(U.S.) INC., EMHART CORPORATION, and	)	
EMHART INDUSTRIES, INC.,	)	
	)	
Defendants.	)	
	)	

AFFIDAVIT OF RICHARD L. BINDER

Richard L. Binder deposes and says:

1. I am a member of the bar of this Commonwealth and am an attorney with Willcox, Pirozzolo & McCarthy, Professional Corporation, counsel for The Black & Decker Corporation, et als., in this action.

2. Exhibit A to the Appendix to Black & Decker's Supplemental Memorandum in support of its Motion for Partial Summary Judgment Regarding Shaffer Landfill, filed herewith ("Appendix"), is a copy of the complaint in United States of America v. Burton Shaffer, et al., United States District Court for the District of Massachusetts, C.A. No. 95-10023 (MLW).

3. Exhibit B to the Appendix contains copies of portions of the EPA Record of Decision Summary for Shaffer Landfill dated June 27, 1991.

4. Exhibit C to the Appendix contains copies of excerpts from the April 14, 1994 EPA Draft Evidentiary Summary Document regarding Shaffer Landfill.

5. Exhibit D to the Appendix is a copy of a Notice of Potential Liability dated June 11, 1993 regarding the Shaffer Landfill Operable Unit of the Iron Horse Park Superfund Site.

6. Exhibit E to the Appendix is a copy of a Liberty Mutual memorandum dated November 4, 1986, entitled "Hazardous Waste Dump Site Claims Brought by Governmental Agencies."

7. Exhibit F to the Appendix is a copy of a Waiver of Special Notice Letter dated April 15, 1994 regarding Shaffer Landfill.

8. Exhibit G to the Appendix is a copy of a letter dated November 1, 1994 from Michael Margiotta to Michael Whelan.

9. Exhibit H to the Appendix is a copy of a letter dated January 28, 1994 from Michael Margiotta to Interested Underwriters.

10. Exhibit I to the Appendix is a copy of a letter dated February 23, 1994 from Michael Margiotta to Interested Underwriters.

11. Exhibit J to the Appendix contains copies of excerpts from the deposition of Burton Shaffer, conducted in this action on May 26, 2004.

12. Exhibit K to the Appendix is a copy of a letter dated November 23, 1994 from Michael Margiotta to Michael Whelan and Kim Olson.

13. Exhibit L to the Appendix is a copy of a letter dated December 21, 1994 from Kim Olson to Michael Margiotta.

14. Exhibit M to the Appendix is a copy of a handwritten note dated February 21, 1994 to Mike Whelan contained in the Liberty Mutual claim file concerning Shaffer Landfill that was produced by Liberty Mutual in discovery in this action.

15. Exhibit N to the Appendix is a true and correct copy of a Memorandum to File dated December 12, 2003 from Tony Fitch regarding Shaffer Landfill.

16. Exhibit O to the Appendix contains copies of excerpts from the June 30, 1993 EPA Draft Evidentiary Summary for Companies Receiving General Notice Letters regarding Shaffer Landfill.

17. Exhibit P to the Appendix is a copy of a schedule entitled "Shaffer Landfill Defense and Indemnification Costs," listing invoices produced to Liberty in the course of this action.

18. Exhibit Q to the Appendix is a copy of Liberty Mutual Loss Prevention Data Sheet Number 82, entitled "Reducing Liability from the Disposal of Hazardous Waste".

19. Exhibit R to the Appendix is a copy of a document entitled "Case Handling Guide, Claims Department."

20. Exhibit S to the Appendix contains copies of excerpts from the trial testimony of Franklin Woodard in this action.

21. Exhibit T to the Appendix contains copies of excerpts from the trial testimony of Michael Bonchonsky in this action.

22. Exhibit U to the Appendix is a copy of a document entitled "Excerpts from the National Research Council (1994)."

23. Exhibit V to the Appendix contains copies of excerpts from the Executive Summary of "Contamination of Ground Water by Toxic Organic Chemicals."

24. Exhibit W to the Appendix contains copies of pages from a 1966 insurance policy issued by Liberty Mutual Insurance Company to United Shoe Machinery Corporation.

25. Exhibit X to the Appendix is a copy of a January 20, 2004 Stipulation, filed in this action.

26. Exhibit Y to the Appendix contains copies of excerpts from the Liberty Mutual site file concerning Shaffer Landfill, produced in discovery by Liberty Mutual in this action.

27. Documents contained in the Appendix do not always contain the enclosures referred to in the document.

28. Documents containing production numbers with the prefix "LM" were produced in discovery in this action by Liberty Mutual, and documents containing production numbers with the prefix "BD," "SB" or "SBSF" were produced in discovery in this action by Black & Decker.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 20, 2004.

/s/Richard L. Binder  
Richard L. Binder